

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

VHC Common Interest Communities Work Group Meeting

November 14, 2006

10:00 A.M.

House Room 1, Patrick Henry Building

Present:

Commission Members

Senator Whipple, Chair
Delegate Cosgrove

Advisors

Janice Burgess
Joe Emerson
Ron Kirby
Tom Meyer
Cynthia Schrier
Mike Toalson
Pia Trigiani

Senator Whipple called the meeting to order and explained that since the Work Group had heard each of the bills on the agenda, today would be a the day to have a final disposition on the bills' outcomes.

As to **HB 1096** and **SB 248**, Senator Whipple concluded that the consensus would be to allow the flag of the United States but to also restrict it to the flag of the United States as there can be no objection to the United States flag and Congress has ruled through the Flag Act of 2005 that the United States flag cannot be restricted.

Delegate Cosgrove suggested also including the flag of the Commonwealth in the bill.

Work Group advisor member Pia Trigiani said it is her opinion that only federal legislation supersedes covenant restrictions and adding the Commonwealth's flag might create constitutional challenges.

Delegate Amundson inquired as to how restrictive the condominium association can be concerning size and location of the flag. The answer was the usual restrictions, they cannot be overly burdensome.

Delegate Cosgrove wanted it noted that that point is not in most condominium covenants. It was noted that although the United States Code has been changed it is still fairly loosely worded.

The recommendation of the Work Group is to have the bill include the American flag only with reasonable restrictions allowable as to time, place, manner and placement of display of the flag. The bill will be presented to the full Housing Commission at the final meeting.

DELEGATE JOHN A. COSGROVE
DELEGATE ROBERT D. HULL
DELEGATE DANIEL W. MARSHALL, III
DELEGATE MELANIE L. RAPP
DELEGATE TERRIE L. SUIT

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
F. ANDREW HEATWOLE
T. K. SOMANATH

A discussion about the display of political signs as to whether it should be guided according to terms of contract or are political signs free speech took place.

Chris Casey spoke and said that the Property Owners' Association (POA) in Mont Clair allowed decorations for all holidays. For example: tombstones can be placed in yards for Halloween, Christmas nativity scenes are allowed, all holidays allow decorations if they are taken down within the prescribed time frame. He asked why Election Day cannot be included; he feels his constitutional rights have been violated. He contended that fundamental rights to free speech may not be submitted to vote.

Senator Whipple inquired if holiday displays must be taken down within two weeks and she was answered affirmatively. There are no restrictions about how soon before a holiday decorations can be placed in yards, she was told.

Delegate Cosgrove mentioned that perhaps the constitutionality issue should be resolved through the Virginia Court system. He said a real lack of equality exists where for sale signs can be placed but not political signs.

Pia Trigiani commented that every community handles signs differently, and it is at the discretion of the individual communities. She doesn't think political sign bill would make it past an Attorney General review.

Senator Whipple said her concern lies in providing a legislative fix for an issue at a local level. Also, she has a concern about issue oriented signs, not signs for direct candidates.

Senator Puller's bill (**SB 621**) is a prospective bill as opposed to Delegate Frederick's bill (**HB 878**) which is not.

Delegate Cosgrove said that the Virginia constitution cannot be changed easily therefore, the best route for Chris Casey to take is to judicially challenge the constitutionality of his POA declaration concerning political signs.

Senator Whipple then presented **SB 268** which she is submitting at the request of Fairfax County.

Melodie Barron and Bernie Canton asked the work group to look at a compromise between Delegate Englin's and Senator Whipple's bills. They explained the bills context. In the circumstance where an apartment building is turning into a condominium, a tenant who possesses the right to first refusal may assign that right to a certified nonprofit Housing Corporation or a housing authority if there is one in the locality. No more than 5% of the units would be affected. The previous tenants would assign their right-to-purchase to the nonprofit or housing authority because that entity would in turn rent back to the tenant at a reasonable rent. Only tenants currently eligible for a long-term lease would be eligible, no one would lose a right they now have. Currently, the developer has to offer the elderly the right to stay for a three-year lease. At the end of the three-year lease, an investor would typically purchase the property. Now it is hard to sell the units to investors and then they have to rent to the previous tenants for a three-year period.

Delegate Cosgrove inquired if the Housing Authority would still control the property if the person living in it passed away. The answer was yes, the unit belongs to the non-profit or housing authority for perpetuity.

When a building is converted to condominiums the sale price to a certified non-profit housing corporation or an investor would be the same, each would be at market rate. Priority would be given, it was decided, to disabled and elderly individuals as opposed to those persons who are designated low-income.

Senator Whipple said it is an excellent opportunity to sell 5% of units without having to look for a seller. It is a win/win for both sides. She stressed that the locality must certify the nonprofit housing corporation, and that it is a modest proposal only including the greater of one unit or 5% of the condominium units.

Delegate Cosgrove said he would like to hear work group advisor Mark Ingrao's opinion concerning the issue, but unfortunately Mr. Ingrao was not present to give the opinion of the Apartment and Office Building Association.

A vote was taken and an agreement made to bring the bill to the full Housing Commission with the recommendation of the Work Group.

There was no public comment.

Delegate Cosgrove mentioned that he has an interest in time shares and will be proposing a bill for the 2007 General Assembly Session as a vehicle to stimulate discussion. He would like the bill referred to the Housing Commission to study during the next interim.

The meeting was adjourned at 11:50 A.M.